

REMARKS

Claims 1-12 and 43-49 are pending in the application. Claims 1, 4, 43, and 47 are independent. In the present paper, Claims 1, 4, 43, and 47 have been amended. These changes are believed to introduce no new matter and their entry is respectfully requested.

Rejection of Claims 1-12 and 43-49 Under 35 U.S.C. §102(e)

In the Office Action, the Examiner maintained the rejection of claims 1-12 and 43-49 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. U.S. 2004/0117831 to Ellis et al. (hereinafter “*Ellis*”). Applicant respectfully traverses the rejection.

Applicant respectfully submits that the cited references fail to teach the identical invention as recited in the claims. Representative claim 1 recites in pertinent part “broadcasting content descriptors, which are sets of attribute values that describe pieces of available content being considered for potential inclusion in a future broadcast schedule, but not included in a previous broadcast schedule, to a plurality of clients, ***wherein the broadcast of the content descriptors is transparent to users of the plurality of clients***; receiving first feedback from at least one of the plurality of clients regarding the content descriptors, the first feedback being an indication from the at least one of the plurality of clients of the relative desirability of the available content described by the content descriptors, the first feedback being based on previous content consumption by the at least one of the plurality of clients, ***the first feedback being automated and transparent to the at least one user of the at least one plurality of clients and in response to a trigger from a broadcaster of the content descriptors***” (emphasis added). Claims 4, 43, and 47 recite similar subject matter. Support for these changes according to at least one embodiment can be found in Applicant’s Specification at page 14, lines 18-20, and Figure 3, for example.

Applicant respectfully submits that *Ellis* fails to disclose the identical invention as recited in claims 1, 4, 43, and/or 47. For example, in *Ellis*, users (persons) are allowed to see the descriptive content that is originally sent to the client devices by pulling up the program guide. In fact, the point of *Ellis* is to show the users content so they can select what they want to watch. In

contrast, in embodiments of the claimed invention descriptive content is sent to the client device but the user of the client device (person) cannot see the descriptive content. That is, the user does not know that descriptive content is being broadcast and does not have access to the broadcast descriptive content because broadcast of descriptive content is transparent to the user.

Secondly, the feedback in *Ellis* is generated by the users (people) using a remote control to access the program guide. That is, in *Ellis* feedback is limited to user-generated feedback. In contrast, in embodiments of the present invention the feedback generation is transparent to the users (people). For instance, the feedback may be sent to the server independently by the client devices, in response to triggers by the server, and/or based on some rules. In embodiments of the claimed invention, there is no user intervention in relaying feedback to the broadcasting server.

Applicant respectfully submits that *Ellis* fails to disclose at least these features recited in the independent claims. Applicant respectfully submits that because *Ellis* fails to disclose the identical invention as recited in claims 1, 4, 43, and 47 claims 1, 4, 43, and 47 are patentable over *Ellis*.

Claims 2-3 properly depend from claim 1 and are thus patentable for at least the same reasons that claim 1 is patentable. Claims 5-12 properly depend from claim 4 and are thus patentable for at least the same reasons that claim 4 is patentable. Claims 44-46 properly depend from claim 43 and are thus patentable for at least the same reasons that claim 43 is patentable. Claims 48-49 properly depend from claim 47 and are thus patentable for at least the same reasons that claim 47 is patentable. (MPEP §2143.03 (citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988))). Accordingly, Applicant respectfully requests that the Examiner reconsider and remove the rejection to claims 1-12 and 43-49.

CONCLUSION

Applicant respectfully submits that all grounds for rejection have been properly traversed, accommodated, or rendered moot and that the application is now in condition for allowance. The Examiner is invited to telephone the undersigned representative if the Examiner believes that an interview might be useful for any reason.

Respectfully submitted,

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